S.B.CIVIL WRIT PETITION NO.6994/2003

Bhagirath Ram Vs. State of Rajasthan & Ors.

DATE OF ORDER :: 14th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Hemant Dutt, for the petitioner.
Mr. S.S. Ladrecha, Addl. Govt. Advocate.

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By an order dated 15.6.1972 appointment was given to the petitioner as Junior Soil Conservator for a period of one year or till the selected hands are made available by the Rajasthan Public Service Commission, whichever is earlier. Though the appointment of the petitioner was for a period of one year but he was allowed to continue in service till his selection as Assistant Agriculture Officer by the Rajasthan Public Service Commission on 10.12.1979.

The respondent-State by treating 20.6.1972 as the date of initial appointment of the petitioner by an order dated 16.9.1994 allowed selection grades to him, but the same was withdrawn by another order dated 29.10.99 by treating 10.12.1979 as the date of appointment of the petitioner. Aggrieved by the order dated 29.10.1999 this petition for writ is preferred.

It is urged that appointment under the order dated 15.6.1972 in pursuant to which the petitioner joined service on 20.6.1972 was also made in accordance with the procedure prescribed for making appointment on urgent temporary basis under the Rajasthan Agriculture Subordinate Service Rules, 1960, therefore, the withdrawal of the selection grade under the order dated 29.10.1999 is bad in eye of law.

It is further stated that a petition of similar nature i.e. Vishnu Prasad Mathur Vs. State of Rajasthan & Ors. (SBCW No.471/2000) has already been accepted by this Court vide the judgment dated 19.4.2001 In the case aforesaid this Court held that Rule 28 of the Rajasthan Agriculture Subordinate Service Rules, 1960 permits urgent temporary appointment to be made and the State Government's notification dated 25.1.1992 regarding grant of selection grades to its employees on completion of 9, 18 and 27 years of service also provides for grant of selection grades from the date of the appointment if that is made in accordance with the Rules. An appointment on urgent temporary basis is required to be treated as an appointment made under the Rules.

In the instant matter it is not in dispute that the appointment to the petitioner was made on urgent temporary basis under the Rules of 1960, therefore, the respondents were required to treat 20.6.1972 as the date of initial appointment of the petitioner. The respondents on

basis of that rightly allowed selection grades to the petitioner under the order dated 16.9.1994 and that was erroneously withdrawn by the order impugned dated 29.10.1999.

In the result, for the reasons above this petition for writ is allowed. The order dated 29.10.1999 is quashed and the order dated 16.9.1994 allowing selection grades to the petitioner by treating 20.6.1972 as the date of his initial appointment is restored. The petitioner shall be entitled for getting fixation of his pay in accordance with the order dated 16.9.1994. If any recovery has been made by the respondents from pay of the petitioner in pursuant to the order dated 29.10.1999, the same shall be refunded to him within a period of three months from today. No order as to cost.

(GOVIND MATHUR),J.

jgoyal